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Identical letters dated 3 December 2009 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the pleasure to write to you today, following my letter dated 11 September 2009 addressed to Susan E. Rice, Permanent Representative of the United States of America to the United Nations, in her capacity as President of the Security Council for the month of September 2009, and Ban Ki-moon, Secretary-General of the United Nations, in connection with the meeting of the Security Council, held at the level of Heads of State and Government on 24 September 2009, for consideration of the agenda item entitled "Nuclear non-proliferation and nuclear disarmament" (see S/2009/459), bringing to the attention of the Council the related paragraphs reflecting the position of the Non-Aligned Movement on that important issue, as incorporated in the Final Document adopted at the Fifteenth Summit of Heads of State and Government held in Sharm el-Sheikh, Egypt, on 16 July 2009.

In this connection, I have the pleasure to attach herewith copies of the letters dated 27 October 2009 from the Chairman of the Chapter of the Non-Aligned Movement in Vienna reflecting the views of the delegations of States members of the Movement accredited to the International Atomic Energy Agency and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization in Vienna addressed to the heads of both organizations, as endorsed by the Coordinating Bureau of the Non-Aligned Movement at its meeting on 2 December 2009, on the substantive content of Security Council resolution 1887 (2009) relating to the work and mandate of both organizations (see annexes I and II).

I wish further to inform you that the Coordinating Bureau of the Non-Aligned Movement is still in the process of conducting a comprehensive evaluation of all substantive aspects of the resolution and will be communicating to you the result of this evaluation.

I request that the present letter and its annexes be circulated as a document of the Security Council.

(*Signed*) Maged A. **Abdelaziz**
Ambassador
Permanent Representative

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Annex I to the identical letters dated 3 December 2009 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to write to you on behalf of the Vienna Chapter of the Non-Aligned Movement (NAM).

The United States of America decided to request a meeting of the Security Council, at the level of Heads of State and Government, on 24 September 2009, to consider the agenda item "Nuclear non-proliferation and nuclear disarmament".

On 11 September 2009, the Permanent Representative of the Arab Republic of Egypt to the United Nations sent a letter, on behalf of the member States of the Non-Aligned Movement (NAM), to the Secretary-General of the United Nations and the President of the Security Council (United States of America). The letter brought to their attention the related paragraphs reflecting the positions of NAM on this important issue, as confirmed in the Final Document adopted by the Fifteenth Summit of Heads of State and Government of the Non-Aligned Movement held in Sharm el-Sheikh, Egypt, on 16 July 2009. The Permanent Representative of Egypt then requested, on behalf of NAM, that the letter and its attachment be circulated as a document of the Security Council and distributed to the members of the Council. Accordingly, it was distributed as document S/2009/459.

NAM hoped that the deliberations of the Security Council on this issue would have been enriched by its contribution, and that NAM positions would have been duly taken into consideration in the formulation of any document to be adopted by the Council at the end of this important Summit. However, several key issues addressed by resolution 1887 (2009), adopted by the Council at its 6191st meeting on 24 September 2009, are testimony to the contrary.

In this context, I wish, on behalf of the Vienna Chapter of NAM, to address the following most salient points raised by this resolution relating to the work of the International Atomic Energy Agency (IAEA):

1. Calling upon States to adopt stricter national controls for the export of sensitive goods and technologies of the nuclear fuel cycle (para. 13); and urging the IAEA Board of Governors to agree as soon as possible upon measures towards multilateral approaches to the nuclear fuel cycle, including assurances of nuclear fuel supply and related measures, as effective means of addressing the expanding need for nuclear fuel and nuclear fuel services and minimizing the risk of proliferation (para. 14).

2. Encouraging States to require, as a condition of nuclear exports, that the recipient State agree that, in the event that it should terminate, withdraw from or be found by the IAEA Board of Governors to be in non-compliance with its IAEA safeguards agreement, the supplier State would have a right to require the return of nuclear material and equipment provided prior to such termination, non-compliance or withdrawal, as well as any special nuclear material produced through the use of such material or equipment (para. 18).

3. Encouraging States to consider whether a recipient State has signed and ratified an additional protocol based on the model additional protocol in making nuclear export decisions (para. 19).

4. Urging States to require as a condition of nuclear exports that the recipient State agree that, in the event that it should terminate its IAEA safeguards agreement, safeguards shall continue with respect to any nuclear material and equipment provided prior to such termination, as well as any special nuclear material produced through the use of such material or equipment (para. 20).

In this regard, NAM would like to reiterate the following principled positions:

1. NAM underlines that IAEA is an independent intergovernmental organization related to the United Nations system, with a technical and promotional role in the area of peaceful use of nuclear science and technology. It acts as the sole agency for the application of nuclear safeguards and remains the most appropriate multilateral forum to address nuclear verification and safeguards issues. It is also the global focal point for providing technical cooperation with a view to enlarging the contribution of atomic energy to peace, health and prosperity throughout the world.

2. NAM reiterates its support for all efforts directed towards enhancing the work of the IAEA in all its aspects, within its legal authority under the statute, bearing in mind the basic and inalienable right of member States to engage in research, production and use of nuclear energy for peaceful purposes without discrimination.

3. While NAM is fully aware of the importance of nuclear safeguards and nuclear safety, it opposes any attempts that aim to reverse the order of priorities of the Agency by giving primacy to safeguards and safety considerations in a manner that leads to the restriction of the promotional role of the Agency.

4. Moreover, NAM emphasizes the IAEA Board of Governors' primary statutory responsibility in addressing safeguards issues in the event of failure of the recipient State or States to take fully corrective action within a reasonable time in case of non-compliance with its Agency safeguards undertakings. It is solely the Board, as per article XII (c) of the IAEA statute, "that may [then] take one or both of the following measures: direct curtailment or suspension of assistance being provided by the Agency or by a member, and call for the return of materials and equipment made available to the recipient member or group of members".

5. NAM strongly rejects setting new conditions and prerequisites for nuclear exports that are contrary to the statute of the IAEA.

6. NAM reiterates that the Agency is not yet in a position to draw any conclusions or make any decisions or recommendations regarding multilateral approaches to the nuclear fuel cycle, including assurances of nuclear fuel supply and related measures. Therefore, further consideration of this issue must be based on a coherent and comprehensive conceptual framework that adequately addresses the views and concerns of the Non-Aligned Movement. NAM recommends that, subject to the provisions of the statute, any decision regarding the implementation of any proposal in this regard be taken by consensus by the General Conference, to take into account the views and concerns of all member States.

7. In the meantime, NAM underscores that all member States of the Agency in the context of their respective legal obligations conclude safeguards agreements with the Agency to ensure that assistance is not used in such a way as to further any military purpose. Having undertaken these obligations, there is no basis for excluding any "sensitive" materials or technologies based on the assumption that these materials or technologies are regarded as having "proliferation risks".

8. NAM also notes with concern that there have been cases in which some of the Agency's documents assumed that access to certain peaceful nuclear technologies represent a threat to international peace and security. NAM expresses its strong rejection of any attempt by any member State to use the technical cooperation programme of IAEA as a tool for political purposes in violation of its statute.

9. NAM reaffirms that a clear distinction has to be made between the legal obligations of member States under their respective safeguards agreements and their voluntary undertakings, in order to ensure that such voluntary undertakings are not turned into legal safeguards obligations.

10. NAM further reaffirms that member States that have concerns regarding non-compliance by other member States with their safeguards agreements should direct such concerns along with supporting evidence and information to the IAEA, to consider, investigate, draw conclusions and decide on necessary actions in accordance with its statute.

NAM also regrets that the Security Council, while emphasizing its primary responsibility in addressing threats to international peace and security in its resolution 1887 (2009), failed to recognize the need for a comprehensive multilaterally negotiated instrument prohibiting attacks or threat of attack on nuclear facilities devoted to peaceful uses of nuclear energy.

NAM believes that through its principled positions, it has contributed in an open and constructive manner to important issues raised within the Agency in all aspects of its work. Although Security Council resolution 1887 (2009) fails to reflect these views, NAM continues to look forward to a constructive dialogue within the framework of IAEA, in which these views are appropriately addressed.

Finally, given the relevance of this issue, I would kindly request you, on behalf of the Vienna Chapter of NAM, to distribute the present letter as a document of the Agency.

(*Signed*) Ehab **Fawzy**
Chairman of the Non-Aligned Movement
Vienna Chapter

Annex II to the identical letters dated 3 December 2009 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to write to you on behalf of the States members of the Vienna Chapter of the Non-Aligned Movement (NAM) who are also signatories to the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

The Security Council, in a meeting at the level of Heads of State and Government, convened on 24 September 2009, considered the agenda item entitled "Nuclear non-proliferation and nuclear disarmament". With a view to enriching the debate as well as the possible outcome of the Security Council on this item, the Permanent Representative of the Arab Republic of Egypt to the United Nations sent a letter, on behalf of the member States of the Non-Aligned Movement (NAM), to the Secretary-General of the United Nations and the President of the Security Council (United States of America). The letter brought to their attention the related paragraphs reflecting the positions of NAM on this important issue, as adopted at the Fifteenth Summit of Heads of State and Government of the Non-Aligned Movement held in Sharm el-Sheikh, Egypt, on 16 July 2009 (S/2009/459).

Resolution 1887 (2009) adopted by the Security Council contains only one operative paragraph (para. 7) related to the work of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), which "calls upon all States to refrain from conducting a nuclear test explosion and to sign and ratify the CTBT, thereby bringing the treaty into force at an early date".

NAM hoped that the deliberations of the Security Council on this issue would have been more thoroughly enriched by its contribution.

NAM would like to bring to your attention that it is of the view that paragraph 7 of resolution 1887 (2009) must be viewed in the wider context of nuclear disarmament and non-proliferation. In this regard, it is appropriate at this juncture to recall the following principled positions of the Movement on this issue:

1. NAM stresses the significance of achieving universal adherence to CTBT, including by all nuclear-weapon States, which, inter alia, should contribute to the process of nuclear disarmament.

2. Nevertheless, NAM reiterates that for the objectives of the Treaty to be fully realized, the continued commitment of all States signatories, especially the nuclear-weapon States, to nuclear disarmament is essential, as well as implementing the agreements of the 1995 Review and Extension Conference of the Non-Proliferation Treaty (NPT) and the Final Document of the 2000 Review Conference of the NPT, including the implementation of the 13 practical steps for systematic and progressive efforts to implement article VI of the Treaty.

3. Clearly, improvements in existing nuclear weapons and the development of new types of weapons contravene the security assurances provided by the nuclear-weapon States. NAM reaffirms that these improvements as well as the development of new types of such weapons violate the commitments undertaken by the nuclear-weapon States, at the time of the conclusion of the CTBT, to ensure that the Treaty would halt both vertical and horizontal proliferation, thereby preventing

the appearance of new types of nuclear devices, as well as nuclear weapons based on new physical principles.

4. In this regard, NAM strongly calls upon the five nuclear-weapon States, as well as those States that possess unsafeguarded nuclear capabilities to observe the spirit and letter of the CTBT.

NAM would like to reaffirm its full support for the objectives of CTBT and its Preparatory Commission. In this regard, while calling on those States whose ratifications are required for entry into force of the Treaty, and who are in a position to do so, to ratify it, NAM urges in particular the two remaining nuclear-weapon States listed in annex 2 to ratify the Treaty without delay. NAM also urges those States in annex 2, who have not even signed the Treaty, to sign and ratify it without delay.

Finally, given the relevance of this issue, I would kindly request you, on behalf of the States members of the Vienna Chapter of NAM who are also signatories to CTBT, to distribute the present letter as a document of the Preparatory Commission for CTBTO.

(*Signed*) Ehab **Fawzy**
Chairman of the Non-Aligned Movement
Vienna Chapter